

May 19, 1947

LAW LIBRARY

ARIZONA ATTORNEY GENERAL

Office of County Attorney,
Yavapai County Court House,
Prescott, Arizona

Attention: Donald J. Morgan,
Deputy County Attorney

Dear Sir:

In your letter of March 13, 1947, you ask for our opinion on the following question: May a liquor dealer, for tax valuation purposes, deduct from his inventory federal tax that has been paid on the liquor? If not, is he not paying "tax on a tax"?

It is a familiar principle of law that the Legislature may decide the manner in which property be valued for taxes and there is a wide latitude in this procedure, subject of course to the familiar constitutional restrictions. Cooley, Law of Taxation, Volume 3, Section 1134, 4th edition.

Our Legislature indicated in Section 73-203 that the basis of assessment is as follows:

" All taxable property must be assessed at its full cash value. The term 'full cash value', when used in this chapter, shall mean the price at which property would sell if voluntarily offered for sale by the owner thereof, upon such terms as such property is usually sold, and not the price which might be realized if such property were sold at a forced sale."

Thus it is clearly provided that the assessment shall be at full cash value which, roughly speaking, is the sale price. This would include the amount of federal tax paid, for that is an element invariably passed on to the purchaser and included in the price. The taxpayer cannot object to this method of valuation unless his fundamental rights are violated.

Our study has revealed no such difficulty. It cannot be asserted that this is double taxation for that impediment arises only where two taxes of the same nature are imposed on one piece

of property during one tax period by the same jurisdiction. In this case we have a federal excise or state ad valorem tax being assessed on identical property by two jurisdictions. It is thus clearly not a case of double taxation.

It is no objection that the state levy is based upon an assessment containing a paid federal tax - that is a tax upon a tax. Many impositions contain such elements, such as our sales tax on the gross proceeds of retailers, the cigarette and gasoline taxes. In the absence of obvious discrimination, as long as the principle of double taxation is not violated, the second tax will not be questioned.

It is our opinion therefore that the federal tax may not be deducted from the value of the liquor stocks in arriving at assessment for the personal property taxes.

Very truly yours,

JOHN L. SULLIVAN,
Attorney General

WILLIAM P. HANNEY, Jr.,
Assistant Attorney General

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